

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
	)	
v.	)	No. 3:08-CR-142
	)	(Phillips)
DAVID C. KERNELL,	)	

**MEMORANDUM AND ORDER**

On April 2, 2010, the Honorable C. Clifford Shirley, United States Magistrate Judge, filed a Report and Recommendation ("R&R") [Doc. 114] in which he recommended to deny defendant's Motion to Dismiss Count II on the Basis that the Indictment Fails to Allege Facts Constituting Wire Fraud [Doc. 43]. The parties appeared before Judge Shirley for a hearing on June 30, 2009.

This matter is presently before the court on defendant's timely objections to the R&R [Doc. 119]. As required by 28 U.S.C. § 636(b)(1), the court has undertaken a *de novo* review of those portions of the R&R to which defendant objects.

Defendant does not raise any new arguments in his objections, and the Court finds itself in agreement with Judge Shirley's analysis of the legal issues. Thus, a detailed written opinion by the undersigned covering the same grounds would be unduly duplicative. Accordingly, defendant's objections [Doc. 119] will be **OVERRULED**, the R&R [Doc. 114] will be **ACCEPTED IN WHOLE**, and the underlying motion to dismiss [Doc. 43] will be **DENIED**.

**IT IS SO ORDERED.**

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge